

The Waiver of Administrative Rules

Waiver

Section 17A.9A of the Iowa Administrative Procedure Act establishes a procedure for any person to petition an agency for a waiver or a variance from the requirements of an administrative rule. In essence this is a request for a temporary exception or an exemption from requirements established by a rule.

Agency Discretion

The decision to grant or deny this petition is within the ‘sole discretion’ of the agency and is subject to very stringent limitations. To ensure that waivers and variances do not have broad application, the statute requires that an agency evaluate a petition for a variance based on the “unique, individual circumstances” set out in the petition and that any waiver or variance be drafted to provide the narrowest exception possible to the provisions of the rule.

An agency may place any condition on a waiver or a variance that the agency finds desirable to protect the public health, safety, and welfare.

Lack of Permanency

A waiver or variance is not permanent, unless the petitioner can show that a temporary waiver or variance would be impracticable. If a temporary waiver or variance is granted, there is no automatic right to renewal. At the sole discretion of the agency a waiver or variance may be renewed.

Semi-Annual Listing of Waivers

All agencies are required to maintain and update every six months a list of the waivers and variances they have approved. To review this list please visit: <https://www.legis.iowa.gov/law/administrativeRules/additionalInfo/waiverVariances> and click on "search waivers."